

law; that there has been no administration upon his personal estate, the whole or nearly all of which had been sold under executions which had been levied upon it previous to his decease.

It further appears, from the bill and its exhibits, that Thomas Dawson had brought suit in Kent County Court, and, on the 17th of March, 1823, recovered judgment against Jesse Jones, from which Jones appealed; that on the 7th of June, 1824, the judgment of the County Court was affirmed by the Court of Appeals, for the sum of \$250, with interest from the 12th of July, 1820, and costs; * that on the 1st of July, 1824, a *fiery facias* was issued on this judgment, from the Court of Appeals; and on the **444** 16th of August following this, defendant, Brown, being then sheriff of Kent County, levied it on a tract of land, the property of Jesse Jones; that Jesse Jones, after having made a partial payment to this sheriff, died in the month of August, 1825; that after his death the lands which had been so taken in execution were, on the 3d of September, 1825, sold by this sheriff, Brown, subject to the dower of the widow of the late David Jones, and of the widow of the late Jesse Jones; that from the proceeds of the sale, this sheriff, Brown, had paid the whole amount due to Dawson with the costs; and had retained to the amount of his own poundage fees; and also the sum of \$65.50 for the payment of taxes and officers' fees placed in his hands for collection, leaving a balance in his hands of \$1,451.38.

Upon all which the plaintiffs by their bill prayed, that the land of which Jesse Jones died seized might be sold; that the proceeds thereof; with the balance remaining in the hands of the defendant Brown, might be paid into the hands of a trustee appointed by this Court, to be applied, under its direction, to the payment of their debts, and such other claims, if any, as might be due from the intestate, Jesse Jones; and that they might have such other relief as was suited to the nature of their case.

The defendants, Spencer and Brown, each put in a separate answer; the infant defendants answered jointly by their guardian; and all of them admitted the truth of the allegations of the bill.

BLAND, C., 16th July, 1827.—This case standing ready for hearing without opposition from the defendants, the solicitor of the plaintiffs was fully heard, and the proceedings read and considered.

The peculiar nature of this case seems to require a more than usually attentive consideration. Putting aside so much of it as relates to the small parcel of land of which the intestate died seized, about which there can be no difficulty; this is the case of a creditors' bill, in which it appears, that the real estate of the debtor had been taken in execution, during his life-time, and sold after his death, leaving a balance, which even yet remains in the